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TAXATION AND THE PHILOSOPHY OF THE STATE.

THE question of the basis and principles of taxation used to be regarded as purely and strictly of an economic character. Today the sociological significance of taxation is very generally recognized, but it may be doubted whether the average writer upon the subject sufficiently realizes the close and vital connection between theories of taxation and conceptions of the nature and province of the state. The animated controversy between determined upholders of the so-called "American" principles of proportionality and uniformity in taxation, and the champions of the progressive or alleged "socialistic" principle, may be profitably reviewed here from a sociological, as distinguished from a politico-economic, point of view.

We know that progressive or graduated taxation has gained considerable ground in the United States, despite strenuous and specious opposition. Ohio and Illinois have passed progressive inheritance- or transfer-tax laws, and these laws have been sustained, not only in the state courts, but in the highest federal court as well. The clear and vigorous decision in the Illinois case rendered by the United States supreme court disposes effectually and finally of the shallow contention that progressive taxation is violative of the constitutional guarantees of "equal protection of the law." State legislatures are now perfectly free to pass graduated income- and inheritance-tax laws, making *amount* of property possessed or inherited the *basis* of classification and discrimination. The federal constitution interposes no obstacle, and the question is properly referred to ethical and sociological principles, to "public policy."

Is progressive taxation unjust, unequal, and dangerous? Is it to be regarded as an entering wedge for confiscatory and socialistic legislation, and does it involve arbitrary discrimination against the well-to-do? If so, it is of course to be profoundly regretted that the Fourteenth Amendment, as now interpreted by the supreme court, does not prohibit it, and it becomes the

duty of enlightened men to warn state legislatures and Congress against this pernicious principle of taxation. This is precisely what Mr. William D. Guthrie, the able New York lawyer, affirms in his excellent work, just published, on *The Fourteenth Amendment*. To quote Mr. Guthrie :

Expediency or prejudice may hereafter prompt attempts at progressive taxes, or tax laws exempting those of moderate means ; but we shall pay a fearful price if we introduce any such principle into our legislation. Equality of burden, by making every man according to his means a contributor to the expenses of the state, is one of the most wholesome things in our civil institutions. . . . If progressive or unequal taxes are permitted, the time cannot be distant when the majority of the voters will confiscate private property under the cloak or pretense of taxation, and the worst follies and crimes of history will be repeated. (P. 140.)

This is strong language, but it is not argument. The reasoning of those who share Mr. Guthrie's views may be thus summarized : "The government is pledged to protect all citizens in the exercise of their freedoms and faculties, and if some, through superior intelligence and industry, earn more than others, it is wrong and short-sighted to punish them for their superior qualifications ; and to tax them at a *higher rate* than others is to discourage intelligence and weaken incentive to labor and thrift." But how is it proposed to prove the injustice, the vice, of progressive taxation ? Question-begging and hard names aside, on what principle is it contended that all persons and all property must be taxed *at the same rate* ?

If those who violently denounce progressive taxation as "socialistic" were logical and unterrified individualists, and consistently followed the doctrine that government is an insurance company for the mere protection of personal and property rights, they could with propriety advocate a system of taxation under which *cost* would determine the premium. It is more expensive and burdensome to a government, regarded as an insurance agency, to protect tangible than intangible forms of property, to protect improvements or land than securities or specie, and those who espouse the Spencerian or strictly individualistic view of the functions and province of government cannot be expected to favor any other basis of taxation than *cost* or pain to

the taxing power. But the proportional taxationists are not individualists, and they would repudiate with no little warmth and indignation the charge that they seek to limit the government to mere police duties. Many of them are protectionists and advocates of bounties. Many of them favor legislation distinctly socialistic in character. Most of them certainly believe that it is the duty of the state to provide free schools and free libraries. All these beliefs and demands are anything but individualistic, yet when the subject of taxation is broached we find a strange, not to say suspicious, and sudden conversion to individualism on the part of the opponents of progressive taxation! In point of fact, the only alternative to the cost principle of the extreme individualists is the principle of "ability to pay." John Stuart Mill, who denies that government has only police functions, writes as follows on the theory of taxation :

Government must be regarded as so preëminently a concern of all that to determine who are most interested in it is of no real importance. If a person, or class of persons, receive so small a share of the benefit as to make it necessary to raise the question, there is something else than taxation which is amiss, and the thing to be done is to remedy the defect, instead of recognizing it and making it a ground for demanding less taxes. As in a case of voluntary subscription for a purpose in which all are interested, all are thought to have done their part fairly when each has contributed according to his means—that is, has made an equal sacrifice for the common object ; in like manner should this be the principle of compulsory contributions.

To say that this view is socialistic is only true if all who support the present political system are socialists. It is a view which every non-individualist tacitly adopts whenever he discusses internal improvements, finance, trade, education, and similar subjects. It is a view which is never rejected except when *taxation* is considered. Accept the theory of government upon which the overwhelming majority of Americans act, and all the alleged unfairness of progressive taxation, which is an application of the "ability-to-pay" principle, disappears at once.

Most economists and writers on political science have discarded the proportional principle and adopted that of equality of sacrifice. They show that it is the proportional system which is

unjust and unequal. The apparent uniformity which deceives the superficial is achieved at the expense of real uniformity. A German economist, K. H. Rau, lays down the following principle: "A given sum of money possesses the higher value for its owner, the greater a proportion of his aggregate disposable goods it constitutes, and the greater a portion it consequently represents of the aggregate enjoyments at his command, especially in case the one who is to be deprived of a given sum will have to stint himself in expenditures for the most necessary articles in order to afford it." This principle, as shown in the recently translated work on *The Science of Finance*, by Professor Gustav Cohn, of the Göttingen university, leads to the progressive basis of taxation. For the smaller the income of a household is, the more will a given sum levied as tax abstract from the means required for pressing necessities, and the tax will fall so much the heavier on the particular household; on the other hand, the larger the income, the more will the tax tend to fall on less pressing or even trivial needs, and will consequently exert but a slight pressure or none at all. This point was once tersely and vigorously expressed by Frederic the Great in an official statement. "A wealthy man," he said, "possessing an income of 5,000 thalers might well be able to spare one-half of it, as he could still live, while a poor man, having an income of 80 thalers, could not spare one-half, as it would leave him nothing to live on. In the case of this latter, he would have done his part if he contributed one thaler."

The "equality-of-sacrifice" or "ability-to-pay" principle rests on another important consideration which the proportional taxonomists overlook or deny. It is well stated by Professor Cohn in the following passage:

The enjoyment of peace and civil liberty is unquestionably a privilege of very unequal value to different members of the commonwealth. The fact that these advantages cannot be measured or apportioned by no means prevents the rich and the poor deriving very widely different benefits from them. One who is able to call his own, not merely a bare existence, but also an extensive estate, who may be exposed to the violence of the foreign armies or domestic malefactors, not only in his person, but also in his property, is entitled, or, rather, he is in duty bound, to look upon the institutions which secure

him against these dangers as being contrivances of the same kind with those coparcenary dikes which are constructed to protect his own and his neighbors' estates against destructive floods. He is bound to pay in due proportion for this peculiar advantage which accrues to his property above what other, less well-to-do or propertyless, members of the commonwealth enjoy.

It is strangely inconsistent for those who reject the conception of a tax as an insurance premium and who, taking a "broad view of the nature of the state," regard the tax as a direct deduction from the principle of national, organic solidarity, to ask, as some of them do, what would be said of a shopkeeper who asked a different price for the same goods from different customers, according to their ability to pay. To ask this question is to assume a fundamental likeness between the services of the shopkeeper to his patrons and those of the state to its subjects—to assume that in both cases *cost* ought to govern price, to accept implicitly the very insurance conception which has been explicitly repudiated. Besides, while shopkeepers do not ask different prices from different patrons, it is well known that physicians, attorneys, and members of other liberal professions do, to a great extent, regulate their charges by the ability of their patrons to pay. Would not the state be classed with the liberal professions by the proportionalists? There is, in fact, no escape from progressive taxation for those who adopt the organic theory of the state. The proportional basis was a sort of crude application of the "insurance" principle, and it does not satisfy either the individualists, who want a more exact application of the cost theory of the state's functions and services, or the adherents of the broader views of the state, who adopt the doctrine that a tax is a payment made by members of the political community toward its expenses simply in virtue of their being members.

To declare dogmatically that there is anything in or about the "American system" which rigorously excludes progressive taxation is to offend both against fact and reason. In the first place, any tariff which taxes articles of comfort and luxury at a higher rate than articles of necessity is a clear violation of the proportional principle. The federal system of taxation is indirectly progressive. Its tariffs are not horizontal or uniform,

and only such tariffs would accord with the proportional principle. To tax the rich at higher rates on the goods imported for their exclusive consumption than on articles of general consumption is to recognize by implication the ability-to-pay principle. No one objects to our tariff laws as un-American. The fact is that there has been a wide departure from the early ideas of government. The Jeffersonian aphorism that "that government is best which governs least" is rightly supposed to sum up the extreme individualistic philosophy of government, but who pretends that our present practice conforms thereto? The Republicans never professed this principle, and the Democrats have abandoned it. Democracy today leans toward socialism rather than toward individualism. It is the Democrats who demand the exclusive supply of paper currency by the government, and it is the Republicans who advocate the "withdrawal of the government from the banking business." The Republicans have taken advanced individualistic ground on several vital questions, while the Democrats have been drifting toward what is called paternalism in the state.

This is said, not with the intention of passing judgment, but solely for the purpose of indicating present social and political tendencies. It lies not in the mouth of any existing party to condemn progressive taxation as revolutionary, because all parties have adopted the philosophy from which such taxation is but a logical corollary. No one can reasonably affirm that progressive taxation is out of harmony with current theory and practice.

Progressive taxation may be oppressive, but the injustice is not in the principle itself in any case. Proportional taxation may be ruinously high, yet no one finds injustice in the principle on that account. It is no doubt easier to enact unfair and confiscatory legislation under a progressive system than under a proportional system, but the possibility of abuse does not affect the theoretical question. Proportionality, as has been ably shown by Controller Roberts of New York, is not proportional in practice. The term is a misnomer and is used without reference to the facts.

The true individualist does not demand proportionality. He

regards the state as an insurance company, and his classification of the subjects of taxation would be based on the cost and burden of protection. The dominant view of the state cannot escape the logical conclusion from its own premises—namely, that the only equality to be sought in taxation is equality of sacrifice and burden.

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